

# ***OUT-of-STATE POLITICAL COMMITTEES***



## **Virginia's Campaign Finance Disclosure Act**

Title 24.2, Chapter 9.3 of the *Code of Virginia*

### ***Summary of Laws and Policies for Out-of-State Political Committees***

*Revised August 8, 2006  
Supersedes All Previous Versions*

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## CHAPTER 1 – General Information

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### Section 1.1 - Purpose of *Summary*

§ 24.2-946 requires the Virginia State Board of Elections (SBE) to prepare and make available a summary of the Campaign Finance Laws in Virginia. To that end, we have assembled this *Summary of Virginia's Campaign Finance Laws and Policies for Out-of-State Political Committees* (hereafter referred to as “*Summary*”), which will assist treasurers on how to file the required campaign finance reports and outlines the provisions of the Campaign Finance Disclosure Act (CFDA or the “Act”), Chapters 9.3 and 9.4 of Title 24.2 of the *Code of Virginia* and the policies adopted by SBE related to those laws.

SBE makes this *Summary* available on the Internet to all Inaugural Committees, their treasurers and the general public. SBE will also mail a copy of this *Summary* upon request.

This document has been prepared to assist the filer in understanding the law enacted by the General Assembly and the related policies set forth by the State Board of Elections. This *Summary* is a basic reference tool, and is **NOT** a substitute for the actual law (a copy of which is available for purchase or to read on-line on our website:

[http://www.sbe.virginia.gov/cms/Campaign\\_Finance\\_Disclosure/Index.html](http://www.sbe.virginia.gov/cms/Campaign_Finance_Disclosure/Index.html)).

It is important to understand that there is more to the law than just filing the required campaign finance reports in a timely manner. As the committee treasurer or custodian of the books, you should familiarize yourself with this *Summary* for it will serve as a valuable resource.

### Section 1.2 - Campaign Finance Staff

SBE staff is available to assist you in preparing reports and interpreting the requirements of the CFDA. Should you have questions or require clarification, contact:

**Chris Piper**, Administrator: [chris.piper@sbe.virginia.gov](mailto:chris.piper@sbe.virginia.gov)

**Tina Edmonds**, Compliance Specialist: [tina.edmonds@sbe.virginia.gov](mailto:tina.edmonds@sbe.virginia.gov)

**Rise Miller**, Political Committee Specialist: [rise.miller@sbe.virginia.gov](mailto:rise.miller@sbe.virginia.gov)

**Marian Mines**, Campaign Committee Specialist: [marian.mines@sbe.virginia.gov](mailto:marian.mines@sbe.virginia.gov)

### Section 1.3 - Elections Not Covered

The provisions of CFDA (see § 24.2-945) do not apply to primaries and elections for:

- ⇒ **Members of the United States Congress;**
- ⇒ **President and Vice President of the United States;**
- ⇒ **Town office in a town with a population of less than 25,000;**
- ⇒ **Directors of soil and water conservation districts; or**
- ⇒ **Political Party Committee Officers.**

In addition, persons (defined below) that make contributions from their direct operating or personal funds are not subject to the requirements of CFDA. However, they are subject to reporting requirements if they make an Independent Expenditure in excess of \$1,000 for a statewide election or \$500 for any other election (see § 24.2-945.2).

## Section 1.4 - Federal Candidates and Committees

A federal candidate or political committee is a candidate for:

- ⇒ **President of the United States;**
- ⇒ **Vice-President of the United States;**
- ⇒ **United States Senate;**
- ⇒ **United States House of Representatives; or**
- ⇒ **any political committee wishing to support or oppose these federal candidates.**

The FEC (and *not* SBE) enforces federal campaign finance laws. Committees wishing to make contributions to these candidates or committees must contact the Federal Election Commission (FEC) to obtain forms and information pertaining to federal campaign finance requirements and filing deadlines. You may contact the FEC at:

800-424-9530 (toll-free) or 202-694-1100 (within the Washington, D.C. area)  
www.fec.gov – Internet address  
999 E. Streets, NW, Washington, DC 20463-0002 – U.S. Mail

## Section 1.5 - Internal Revenue Service Requirements

SBE has no authority to provide any advice regarding federal tax laws. Therefore, if you have questions regarding whether or not your campaign meets the requirements of the federal internal revenue code please contact the Internal Revenue Service. Their website address is <http://www.irs.gov/charities/political/index.html>.

## Section 1.6 - Cash-Basis vs. Accrual-Basis Reporting

Virginia's campaign finance reporting system works on an accounting practice known as 'cash-basis' reporting rather than 'accrual-basis' reporting. Cash-basis and accrual-basis accounting use different criteria for determining when to recognize and record contributions and expenditures in your campaign finance records.

In an accrual-basis reporting system, contributions would be reported in the period in which it is earned (e.g., once contracted services are provided, grant provisions are met, etc.), regardless of when the cash from these contributions are received. Expenditures are recorded as they are owed (e.g. when supplies are ordered, the printer finishes your brochure, employees actually perform the work, etc.), instead of when they are paid.

On a cash-basis reporting system, contributions are reported when the cash is received. Expenditures are reported in the reporting period when the expenditures are paid.

Therefore, it is important to remember that, in Virginia, contributions are reported on the dates when the funds are actually received and on the dates when the funds are actually expended. The exceptions to this rule apply only in cases where debts on material goods have been received or for In-Kind Contributions with regards to services or advertisements purchased on behalf of a candidate where coordination has also occurred. (see Chapter 4). Since no money is actually changing hands in this type of contribution, the information should be reported on the same date that the service was provided or when the advertisement benefiting the candidate was disseminated.

## Section 1.7 - Definitions

The following are definitions of the terms used in this *Summary* that are of principal importance to treasurers. Please keep in mind that some of the terms, while not specifically defined in CFDA, are useful in understanding this document. If you wish to read the exact definitions as they appear in CFDA, you may refer to § § 24.2-945.1 or 24.2-101 of the Code of Virginia.

***Adjournment sine die*** – adjournment on the last legislative day of the regular session (the regular session does not include the ensuing reconvened session or any special session following in the same year).

***Advertisement*** – any message appearing in the print media, on television, or on radio that constitutes a contribution or expenditure under Chapter 9 (§§ 24.2-945 et seq.) of this title. “Advertisement” does not include issue advocacy or novelty items authorized by a candidate including, but not limited to, pens, pencils, magnets, and buttons to be attached to wearing apparel.

***Agent of the candidate or candidate’s campaign committee*** – One empowered to act for or represent the candidate made through an agreement, verbal or otherwise, between the candidate and the person. The term shall not include unpaid volunteers.

***Aggregate Contribution*** – the total amount of contributions made by an individual or other entity during an election cycle.

***Authorization*** – means the express approval or consent by the candidate, the candidate’s campaign committee, or an agent of the candidate campaign committee after coordinating the expenditure with the candidate, the candidate’s campaign committee, or an agent of the candidate campaign committee.

***Candidate*** – an individual who seeks nomination for election, or election to public office, in the Commonwealth of Virginia whether or not that person’s name is on the ballot. The definition includes ‘write-in’ candidates. An individual is considered, for campaign finance purposes only, a candidate seeking nomination for election or re-election under the provisions of the Act if they have:

- ⇒ **Provided payment of a filing fee for any party nomination method;**
- ⇒ **Submitted a Statement of Qualification form (see § 24.2-501) (whether or not funds or resources have been solicited, received or expended);**
- ⇒ **Personally, or through another person, solicited or received funds or other things of value, or made expenditures, including expenditures from personal funds, for the purpose of bringing about such individual’s nomination or election to any office;**
- ⇒ **Has been endorsed or nominated by a Political Party and is thus entitled to a position on the ballot at an election or primary (whether or not funds or resources have been solicited, received or expended);**

- ⇒ **Has otherwise been qualified for placement on the ballot pursuant to the election laws (whether or not funds or resources have been solicited, received or expended);**
- ⇒ **Has appointed a campaign treasurer, designated a campaign committee, or designated a campaign depository;**
- ⇒ **Has not filed a final report for the previous election cycle prior to a new election cycle's begin date. In this instance, an individual will be considered a candidate for the same office in the succeeding election for administrative purposes (see §24.2-947).**
- ⇒ **Candidate Types:**
  - ⇒ **Local Candidate – Candidate for a city, county or town's local or constitutional offices.**
  - ⇒ **General Assembly Candidate – Candidate for Virginia State Senate or House of Delegates.**
  - ⇒ **Statewide Candidate – Candidate for Governor, Lieutenant Governor or Attorney General.**

***Candidate's Campaign Committee*** – the committee designated by a candidate to receive all contributions and make all expenditures for them or on their behalf in connection with their nomination or election. A Candidate's Campaign Committee may not be established for multiple candidates.

***Candidate's Election Cycle*** – an election cycle begins on January 1 of the year that the candidate first seeks election for the office through December 31 immediately following the election for such office. The election cycle provides for the aggregation of contributions and expenditures for the candidate's campaign finance reporting. A candidate with any activity to report in a new election cycle shall be presumed to be a candidate for reelection in the succeeding election solely for the purpose of filing campaign finance reports.

***Conspicuous*** – so written, displayed, or presented that a reasonable person ought to have noticed it.

***Contribution*** – money or services of any amount, and any other thing of value, given, advanced, loaned, or in any other way provided to a candidate, campaign committee, political committee, inaugural committee or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor or Attorney General. "Contribution" includes money, services or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of any primary filing fee.

***Coordinated or Coordination*** – an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

***Debt*** – any and all outstanding financial obligations. The term does not refer to monies owed to utility companies for services rendered.

***Depository*** – the account(s) in a designated financial institution established to maintain all monetary receipts of a committee.

***Election*** – any general, primary, special election or referendum.



**Expenditure** – money or services of any amount, and any other thing of value, paid, loaned, provided or in any other way disbursed by any candidate, campaign committee, political committee, inaugural committee or person for the purpose of influencing the outcome of an election or for defraying the costs of the inauguration of a Governor, Lieutenant Governor or Attorney General.

**Express Advocacy** – a direct or indirect contribution, in-kind contribution or loan made to a candidate or political committee for the purpose of influencing the outcome of an election; an advertisement that refers to a party or candidate(s) by name and states “Vote for...”; “Support”; “Elect...”; “Smith for Congress”; “Send Him Home”; “Oppose”, etc.

**Failure to File** – any required campaign finance report not received by the State Board or local electoral board within 60 days after official notification from the State Board or local electoral board. For candidates for Statewide Office, a report shall be considered *failure to file* if the report is not received within seven days after official notification from the Secretary of SBE.

**Federal Political Action Committee** – any political action committee registered with the Federal Election Commission that makes contributions to candidates or political committees registered in Virginia.

**Full-screen** – the only picture appearing on the television screen during the oral disclosure statement that (i) contains the disclosing person, (ii) occupies all visible space on the television screen, and (iii) contains the image of the disclosing person that occupies at least fifty percent of the vertical height of the television screen.

**Inaugural Committee** – any organization, person or group of persons that anticipate receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General.

**Incomplete report** – a campaign finance report that does not include all required information.

**Independent Expenditure** – an expenditure made by any person or political committee that is not made to, controlled by, coordinated with, or made with the authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign committee. It includes an expenditure made by a candidate campaign committee (i) that is not related to the candidate's own campaign and (ii) that is not made to, controlled by, coordinated with, or made with the authorization of a different candidate, his campaign committee, or an agent of that candidate or his campaign committee.

**In-Kind Contribution** – the donation of goods, services, property or anything else of value that is offered for free or less than the usual and normal charge; or payments by a third party for goods and services rather than money. The basis for arriving at the dollar value of an In-Kind gift is as follows: new items are valued at retail value; used items are valued at fair market value and services rendered are valued at the actual cost of service per hour. Services are not to include personal services (outside of the person's professional occupation) for which no compensation is asked or given.

**Occurrence** – one broadcast of a radio or television political campaign advertisement in violation of the expanded disclosure requirements for television and radio.

**Out-of-State Political Committee** – means an entity subject to § 527 of the United States Internal Revenue Code that is not registered as a political committee or candidate campaign committee in Virginia and whose contributions made to political committees and candidate campaign committees registered in Virginia is 75% or less of their total expenditures in any calendar year. The term does not include federal political action committees.



**Person** – any individual or corporation, partnership, business, labor organization, membership organization, association, cooperative or other like entity who makes contributions from their direct operating funds, or their own personal funds as in the case of an individual. Persons are subject to independent expenditure reporting requirements.

**Petty cash fund** – fund established by a campaign treasurer for the purpose of making expenditures or reimbursing verified credit card expenditures of less than \$200. The total must never exceed \$200 and if established, the treasurer must maintain complete records, as required by CFDA, of any expenditure less than \$200 (see § 24.2-947.2).

**Political Action Committee (PAC)** – any organization, person, or group of persons, established or maintained in whole or in part to receive and expend contributions for the purpose of influencing the outcome of any election. The term shall not include a campaign committee, federal political action committee, out-of-state political committee, political party committee, referendum committee, or inaugural committee. **Note:** May also be referred to as Political Committee.

**Political Committee** – a general term which refers to any political action committee, political party committee, referendum committee, or inaugural committee. The term does not include:

- ⇒ **federal political action committee,**
- ⇒ **out-of-state political committee,**
- ⇒ **campaign committee, or**
- ⇒ **person, which in making contributions does so out of their own personal funds or the entity's direct operating funds.**

**Political Party Committee** – any state political party committee, congressional district political party committee, political party committee for a county or city, other election district political party committee, organized political party group of elected officials, which anticipates receiving contributions or making expenditures in whole or in part, for the purpose of influencing the outcome of an election. **Note:** May also be referred to as Political Committee.

**Print Media** – billboards, cards, newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, and outdoor advertising facilities.

**Radio** – any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

**Referendum Committee** – any organization, person, group of persons, or committee, that makes expenditures to advocate the passage or defeat of a referendum legally placed on the ballot.

**Reporting Period** – the beginning and ending activity dates for a particular campaign finance report.

**Residence** – means and requires both domicile and a place of abode for all purposes of qualification to register and vote.

**Scan Line** – a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.

**Solicit** – to request a contribution, orally or in writing. This does not include a request for support of a candidate or their position on an issue.

**Sponsor** – a candidate, candidate campaign committee, political party committee, political action committee, individual, or other entity that purchases an advertisement.

**Surplus funds** – the funds remaining after the payment of all debts and expenses incurred by a committee. **Note:** May also be referred to as Excess Funds.

**Television** – any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

**Treasurer** – the appointed bookkeeping officer of a candidate's campaign committee.

**Un-observed** – means that the only printed material that may appear on the television screen is a visual disclosure statement required by law and that nothing is blocking the view of the disclosing person's face.

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## CHAPTER 2 – Statement of Organization

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### Section 2.1 - Becoming an Out-of-State Political Committee

An out-of-state political committee is typically a § 527 organization or a political committee that is filing campaign finance reports with another state. “Out-of-State” is not a geographical determinant. Instead, it refers to any political organization that was organized for purposes other than to influence the outcome of a non-federal Virginia election. The term does not include political action committees registered with the Federal Election Commission, § § 501 (c)(4) or 501 (c)(6) organizations.

To qualify as an out-of-state political committee, the organization cannot have made contributions to non-federal candidates or political committees registered in Virginia which total more than 75% of their total expenditures during a calendar year. In other words, if your committee has made \$100,000 in expenditures during the current year, and \$76,000 or more of those expenditures were contributions to candidates or political committees in Virginia, then you qualify as PAC in Virginia and your committee should refer to the *Summary of Laws and Policies for Political Action Committees (PACs)*. Otherwise, your committee should consider itself an out-of-state political committee.

An out-of-state political committee is free to make contributions up to \$10,000 per calendar year, in the aggregate, to candidates and political committees registered in Virginia without having to register with the State Board of Elections. However, once the committee’s total contributions to Virginia committees exceed \$10,000 per year, then the committee must register with SBE and file a Statement of Organization. The threshold stated in this paragraph applies to all contributions and not just contributions to a single candidate or committee.

Corporations and unions that contribute from their direct operating funds are not subject to the requirements of the Act unless these organizations make an independent expenditure that benefit a non-federal Virginia candidate or political committee.

### Section 2.2 – Establishing an Out-of-State Political Committee

The committee must submit a *Statement of Organization* on or before the date in which the committee makes contributions to non-federal Virginia candidates or political committees of \$10,000 or more in a calendar year.

#### ***The Statement of Organization***

The following information must be disclosed on the committee’s *Statement of Organization*:

- ⇒ **The name of the committee and its address;**
- ⇒ **The names, addresses, and relationships of affiliated or connected organizations;**
- ⇒ **The area, scope, or jurisdiction of the political action committee;**
- ⇒ **The name and business address of the treasurer and his residence address who shall be deemed the agent of the political action committee for the purpose of service of process on the political committee;**

- ⇒ **The name, residence address, business address, and position of the custodian of the books and accounts, who works under the direction of the treasurer, and the address where the books are maintained;**
- ⇒ **The name, address, office sought, and party affiliation of each individual whom the political action committee is supporting or opposing for nomination or for election to any public office whatever or, if supporting the entire ticket of any party, the name of the party;**
- ⇒ **The designated depository to be used for the receipt and holding of funds and contributions received by the political action committee, in an account in a financial institution within the Commonwealth;**
- ⇒ **Its taxpayer identification number; and**
- ⇒ **A list of other federal and state agencies with which it is required to file financial disclosure information and registration numbers for the committee with each of these agencies.**

### ***Mailing Address***

The *Statement* must include the primary mailing address of the committee. Post Office Boxes are acceptable. This address will be SBE's primary mailing address and all official notifications will be sent to this address. It is the responsibility of the committee's treasurer to ensure that SBE has the most recent mailing address filed with us on the committee's *Statement of Organization*.

### ***Affiliated Organizations***

The committee must disclose any and all affiliated organizations on their *Statement of Organization*. An affiliated organization includes, but is not limited to, the affiliated Federal PAC, corporation, membership association, union, etc.

### ***Area, Scope or Jurisdiction***

The committee must disclose the area, scope or jurisdiction of the committee. The committee must disclose on its *Statement of Organization* if they intend to influence local (if so, which cities or counties), General Assembly or Statewide elections.

### ***List of Candidates Supported***

The committee must disclose, at its time of registration, the names, addresses and party affiliation of each candidate supported or opposed. If the committee intends to support a particular political party then the committee can simply list the name of the political party.

### ***Treasurer Information***

The name and residence as well as business mailing address of the treasurer must be disclosed.

***Custodian of the Books***

The name and mailing address of the custodian of the books as well as the address where the books are maintained must be disclosed.

**Section 2.3 - Where to File the Statement of Organization**

Committees must file an original, signed copy of their Statement of Organization with the State Board of Elections on or before the date that the committee makes contributions of \$10,000 or more to any candidate or political committee registered in Virginia.

Copied or faxed versions of the *Statement of Organization* will not be accepted and will not be considered timely filed. The form must be an original, signed copy unless otherwise stated above. All committees must maintain a copy of this form for their records.

***Amending the Statement of Organization***

The committee must file an amended *Statement of Organization* within 10 days of any change to the committee's information (e.g., a change in address) to SBE.

Committees have ten days from the date of any change to file an amended *Statement of Organization*. If all information remains the same the original *Statement of Organization* will continue in effect until a Final Report is filed or until a change in the information occurs.

## CHAPTER 3 – Reporting Requirements

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An out-of-state political committee must file a reporting of its contributors and a list of contributions made to candidates and political committees registered in Virginia on the same date in which it submits its *Statement of Organization* to SBE. Subsequent reports are due on the same date in which the committee makes additional contributions to candidates or political committees registered in Virginia.

### Section 3.1 – Schedule A: List of Direct Contributors

On its report, the committee must itemize all entities which have given to the committee an aggregate amount of \$2,500 since the immediately preceding January 1.

#### ***Contributions from Other Out-of-State Committees***

Any § 527 organization which has given \$50,000 to the registered out-of-state committee is also required to register with SBE and file the required campaign finance reports.

### Section 3.2 – Contributor's Required Information

#### ***Name of the Contributor***

The full name of the contributor is required to be reported, in alphabetical order, on the campaign finance report. For businesses and other types of organizations, the name of the company should be listed in alphabetical order. The committee must report the full name of the organization. Acronyms are not acceptable.

For individuals, the order must be followed by the person's last name.

#### ***Address of the Contributor***

The full address of the contributor is required to be reported on the campaign finance report. Post office boxes are acceptable addresses in all instances.

#### ***Occupation of the Contributor (Individuals Only)***

The occupation of the contributor must not state the title or position of the individual. The report should indicate the type of work of the individual is employed to do.

Acceptable entries for the occupation of a contributor are:

- ⇒ **Construction;**
- ⇒ **Marketing;**
- ⇒ **Financial Advisor;**
- ⇒ **Entrepreneur;**
- ⇒ **Student;**

- ⇒ **Retired;**
- ⇒ **Homemaker/Housewife.**

Unacceptable entries include:

- ⇒ **Vice President;**
- ⇒ **Manager;**
- ⇒ **Owner;**
- ⇒ **N/A.**

Every person has an occupation even if that occupation is “retired” or “student”. In no case should a committee report the individual’s occupation as “not applicable.”

### ***Principal Type of Business (Non-Individuals Only)***

The treasurer must enter the type of business for that organization. For example, a committee that received a contribution from an electric utility would enter “electric utility.”

### ***Place of Employment (Individuals Only)***

The treasurer must enter the city and state where the individual is employed.

### ***Place of Business (Non-Individuals Only)***

The treasurer must enter the city and state where the business is located. It is sufficient to list the city and state where the business’ headquarters’ are located.

### ***Date Received***

A contribution is considered received the date that it knowingly comes into the hands of an “agent” of the committee. Contributions should never be reported as the date that the money is deposited unless the contribution was received on the same date that the contribution is received. Contributions should also not be reported as the date written on the check unless that is the same date that the check is received.

One exception to this rule is in the case of contributions received by credit cards. If a contribution is provided by credit card on a website, the date that the contribution is considered received is the date that the contributor entered their information into the website. The treasurer should not report the contribution as being received on the date that the information is passed from the collecting agency to the committee.



## Section 3.3 – Soliciting Contributions

### ***Best Efforts Policy***

Most committees, at one time or another, will receive unsolicited contributions which do not include the required information necessary to comply with the Act. In such instances, the committee must make every effort to contact the contributor in order to gather the required information. SBE considers a “best effort” made by the committee to include sending a written request to the contributor asking for the required information.

If the campaign finance report is due and, after sending a written request, any of the required information of the contributor is still unknown, it shall temporarily suffice to report “Unable to Obtain” or “Information Requested” in the field missing the required information. The committee is also required to submit, along with the committee’s report, a copy of the written request to the contributor asking for the required missing information. SBE does not consider a report complete if a committee’s report contains more than 10% of the total number of contributors are missing required information.

## Section 3.4 - Contributions from FEC PACs and Out-of-State Political Committees

Prior to accepting contributions of \$10,000 or more in the aggregate in **any calendar year** from a political committee registered with the Federal Election Commission or from an out-of-state political committee, the committee must request the SBE supplied registration number from the committee and verify that number with SBE. This can be done by sending an email to SBE at [cfda@sbe.virginia.gov](mailto:cfda@sbe.virginia.gov).

Therefore, it is important that the treasurer verify the registration status of a political committee before the committee accepts a contribution from any political committee that aggregates to \$10,000 or more in the calendar year.

## Section 3.5 – Schedule B: List of In-Kind Contributions

### ***Reporting In-Kind Contributions***

It is the responsibility of the recipient of the In-Kind Contribution to obtain the information necessary to report the contribution. If the treasurer of the committee has coordinated with the person or committee providing the In-Kind Contribution, then the committee is responsible for accurately reporting the In-Kind Contribution.

The required contributor information for reporting In-Kind contributors is the same as for reporting the list of direct contributions. A few differences are outlined below:

### ***Date Received***

In-Kind Contributions must be reported as being received on the same date that the good or service was received and **NOT** the date the committee is informed of the cost of the good or service.

For example, if XYZ-PAC purchases an advertisement as an in-kind contribution to Candidate Doe, then the candidate’s committee is required to report the In-Kind Contribution as being received on the date that the advertisement is first disseminated.

***Service or Goods Received***

As stated above, In-Kind Contributions can be professional services or material goods offered for free or less than the usual and normal charges or payments for materials through a third-party. The committee is required to indicate the type of service or the good received on their campaign finance report.

***Basis Used to Determine Value***

All In-Kind Contributions have an attached value whether they are a service or a good. Therefore, the committee is required to report what basis was used in order to determine the value for the service or goods received. SBE recognizes only two bases for determining an In-Kind Contribution's value: Actual Cost or Fair Market.

**Actual Cost**

This basis must be used when the actual cost of a good or service was determined to be the value of the In-Kind Contribution. This is typically used when determining the value for goods bought by a third-party.

**Fair Market**

This basis is used when an actual cost is not able to be determined. This basis is typically used when determining the value of used goods or services provided.

***Aggregate-to-Date***

Treasurers must always remember to aggregate a contributor's direct contributions with their In-Kind Contributions in cases where a contributor has given both directly and In-Kind.

**Section 3.6 - Schedule C: Contributions Made to Candidates or Political Committees Registered in Virginia**

The report also must include a listing of all contributions made by the committee to candidates and political committees registered in Virginia.

***Full Name of Candidate or Political Committee***

The report must contain the full name of the candidate or political committee to which the contribution was made.

***Mailing Address of Payee***

The report must contain the full mailing address of the candidate or political committee to whom the contribution was made.

***Date Paid***

The report must list the expenditures in order by the date that the expenditure was made (earliest first). It is not acceptable to report the expenditure on the date that the expenditure cleared the bank account.

**Section 3.7 - Filing a Final Report**

The committee may choose to file a final report at any time. The report must clearly indicate that it is the final report for the committee.

A final report should not be filed if the committee anticipates making contributions to candidates or political committees in the future.

## CHAPTER 4 – Where and When to File Campaign Finance Reports

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### Section 4.1 - Filing Periods

Out-of-State political committees are required to file a report on the same day as when one of the following occurs:

- ⇒ **The committee makes contributions which place them above the \$10,000 threshold; or**
- ⇒ **When, after filing their first report, the committee makes additional contributions of any amount to candidates or political committees registered in Virginia.**

### Section 4.2 - Where to File Reports

Upon the date of registration, SBE will provide the treasurer or custodian of the books the necessary committee code and security code to access the on-line form required to file the committee's reports. Out-of-State political committees must file their reports on-line at SBE's website: [www.sbe.virginia.gov](http://www.sbe.virginia.gov).

### Section 4.3 - Extension of the Filing Deadline

The *Code of Virginia* authorizes SBE or the local electoral boards to grant an extension of a filing deadline in certain situations. SBE or the local electoral boards will not impose civil penalties if an appropriate written request is received by the report's due date describing any of the following situations:

- ⇒ **Death of treasurer or immediate family of either within 72 hours of report due date;**
- ⇒ **Personal Computer (PC) failure that prevents timely filing, if accompanied by documented statement from a computer company licensed to do business in Virginia;**
- ⇒ **Fire or natural disaster within 72 hours of the report due date, resulting in destruction of equipment or documents required for completing the report.**

The following excuses are not sufficient and will not be considered for granting an extension of the filing deadline. They include, but not limited to:

- ⇒ **Inclement weather;**
- ⇒ **Treasurer or custodian of the books transition that may result in a "paper shuffle;"**
- ⇒ **Committee's lack of knowledge of how to file, the need to file or due date of filing; or**
- ⇒ **Committee's failure to have copies of necessary forms.**

The Secretary of the State Board of Elections has additional authority to extend an established filing deadline for filing during emergency situations that interfere with the timely filing of reports. The extension shall be limited in scope to the areas and times affected by the emergency. The emergency extensions can only be granted in the case of an emergency declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 or declared by the President of the United States and confirmed by the Governor by executive order as an emergency.

## Section 4.4 - Other Reporting Policies

- ⇒ **It is the responsibility of the filer to ensure that they receive documentation that the statement or report has been received by SBE. All receipts should be maintained with the committee's records.**
- ⇒ **E-filers will be provided an automatic receipt at the time that they submit their report. No e-filing committee should consider SBE as having received the report until such time as they have been provided a receipt.**
- ⇒ **No report can be filed before the date through which activity is required to be complete.**
- ⇒ **No report can include activity before or after the reporting period for the report.**
- ⇒ **The first report filed must include all activity for the entire period from January 1 of the year in which the committee met the requirements for establishing the committee.**
- ⇒ **The security code used by the committee when filing electronically is considered the signature as long as the committee has indicated their intention to file electronically.**
- ⇒ **In order to close a committee, a Final Report must be filed for that committee or they will be required to file all required reports for that election cycle.**

## CHAPTER 5 –Reporting Penalties

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### Section 5.1 – General Provisions

The State Board of Elections has formally adopted the following schedules for the assessments of Civil Penalties. To ensure uniformity throughout the state, this schedule must be followed when the filing officer is assessing civil penalties.

**“Official Notification”** as stated within this chapter refers to the letter sent via United States Postal Service Certified Mail to the committee’s primary mailing address as reported on the committee’s most recently filed Statement of Organization. The date of “official notification” is either the date that the letter is received and signed for or the date on which the USPS returned the mail to SBE. The notification is considered made even if the notification is not signed for so long as the notification was sent to the committee’s primary mailing address.

### Section 5.2 - Procedure to Collect Penalties for Campaign Finance Reports

- 1) The State Board or local electoral board must notify the committee in violation via certified mail that the Board or board has not received the required Campaign Finance report.
- 2) The State Board or the local electoral board shall notify the Commonwealth’s Attorney for the City of Richmond within 90 days of the deadline if the required payment or report has not yet been received. The Commonwealth’s Attorney shall then initiate civil proceedings collect the civil penalties.
- 3) Committees must make their checks payable to “Treasurer of Virginia” for deposit to the General Fund.

### Section 5.3 – Penalty Schedule for Incomplete Reports

#### ***Best Efforts Policy***

Once reports are received, SBE is required to review the reports and provide requests for additional information to the committee within 21 days of the deadline. The committee’s failure to file an amended report or late filing of an amended report will be assessed civil penalties.

In conducting its review, SBE and the local electoral board are required to check the following information:

- Check that the report is legible.
- Check for missing information in required fields such as “N/A”, “none”, “unknown” etc. In fields where “requested” or “unable to obtain” is entered, verify that copies of letters to the contributors requesting this information have been filed.
- Verify that the beginning balance of the current report (Schedule H, Line 16) equals the ending balance of the previous period’s report (Schedule H, Line 19);
- Verify that Line 19 and Line 29 on Schedule H match;
- Verify that contributions are reported in alphabetical order on Schedule A and Schedule B as required by § 24.2-947.4;

- Verify that expenditures are reported in chronological order (earliest first) on Schedule D;

If any required information is not included or the report is not completed properly, the report is deemed incomplete. However, SBE has determined that some missing information does not necessarily mean that a report should be considered incomplete. SBE has adopted this “Best Efforts” policy in order to comply with the requirements of § 24.2-953.3.

Therefore, Campaign Finance reports should not be considered incomplete if:

- 1) Less than 10% of contributors are missing required information on Schedule or Schedule B; or less than 10% of any other itemized information does not include the required information.

\*For example, if there are 100 itemized contributors on Schedule A, then no more than 10 of those contributors can have missing information.

**AND**

- 2) Letters requesting the required information from those contributors is filed with the report.

If these conditions are not met, then the report is considered incomplete and a letter requesting an amended report will be mailed to the committee.

The failure to file the complete and amended report will result in the following civil penalties:



Election Cycle Expenditure Totals	Amount	Reason
<b>\$0 - \$10,000</b>	\$100	Report Not Received by Deadline Established by State Board or local board and Does Not Meet “Best Efforts” Policy.
	Additional \$400	Report Not Received within 60 Days of Deadline Established by State Board or local board.
<b>\$10,000 - \$50,000</b>	\$250	Report Not Received by Deadline Established by State Board or local board and Does Not Meet “Best Efforts” Policy.
	Additional \$500	Report Not Received within 60 Days of Deadline Established by State Board or local board.
<b>More Than \$50,000</b>	\$500	Report Not Received by Deadline Established by State Board or local board and Does Not Meet “Best Efforts” Policy.
	Additional \$500	Report Not Received within 60 Days of Deadline Established by State Board or local board.
<b>Second or Subsequent Incomplete Reports</b>	\$1,000	<p>This penalty is not applicable to:</p> <ul style="list-style-type: none"> <li>(i) committees which have raised less than \$10,000 during their election cycle; and</li> <li>(ii) to a report that has been filed less than 20 days after official notification of an previous incomplete report from the State Board or local electoral board.</li> </ul>

If the requested amended report is not filed within 120 days of the specified deadline then the violation is presumed willful and the matter will be forwarded to the appropriate Attorney for the Commonwealth.

## **Section 5.4 – Penalties for Accepting Contributions from Unregistered Out-of-State Political Committees or Federal Political Action Committees**

It is unlawful for any committee registered in Virginia to accept contributions of more than \$10,000, in the aggregate during a calendar year, from an out-of-state political committee or Federal political action committee which is not registered with SBE.

Accepting any contribution of \$10,000 or more, in the aggregate during a calendar year, without first verifying the committee's SBE registration status will result in a penalty equal to the amount of the contribution received.

SBE shall assess the penalty at the time that it becomes aware of the violation. If the penalty is not paid within five days after official notification of the penalty then SBE shall send the matter to the Commonwealth's Attorney for the city of Richmond to enforce its collection.

## **Section 5.5 – Additional Penalties for Out-of-State Political Committees Regarding the Failure to File Statement of Organization**

### ***Procedure to Collect Penalties for Statement of Organization Violations***

SBE will officially notify the committee of the violation via certified mail. The committee will have five days to comply with the provisions of the Act. Failure to comply within five days of official notification will require SBE to forward the matter to the Attorney General's office, pursuant to the provisions of § 24.2-104, to enforce compliance and collect the assessed penalty.

### ***Penalties for Statement of Organization Violations***

The amount of the penalty will be equal to the amount of the contribution in which the committee made which required the committee to register with SBE.

## **Section 5.6 - Willful Violations**

A willful violation occurs when the filer's failure to file continues for more than 60 days after notice from the State Board or an investigation determines that the person intentionally attempted to subvert the provisions of the Act.

In the case of willful violation, a committee shall be guilty of a Class 1 misdemeanor and the Attorney for the Commonwealth shall initiate civil proceedings to enforce any civil penalties prescribed. There shall be a rebuttable presumption that the violation of the Act was willful if the violation is based on a committee's failure to file a report required and its failure to file continues for more than 60 days following the actual receipt of written notice of that failure, sent by mail, return receipt requested, by the Virginia State Board or an Electoral Board.